

ORIGINAL

1  
2 UNITED STATES GRAND JURY  
3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - - x

5 UNITED STATES OF AMERICA :  
6 -v- : August 2009  
: Special

7 PHILLIP KENNER :  
8 - - - - - x

9  
10 UNITED STATES COURTHOUSE  
11 500 Pearl Street  
New York, New York 10007

12 March 29, 2011  
13 12:33 a.m.

14  
15 APPEARANCES:

16 ARLO DEVLIN-BROWN, ESQ.

17 Assistant United States Attorney  
18

19  
20 Rivka Teich, R.P.R., C.S.R.  
21 Acting Grand Jury Reporter  
22



FINK & CARNEY  
REPORTING AND VIDEO SERVICES  
39 West 37th Street, 6th Floor, New York, N.Y. 10018 (212) 869-1500

6

T. Stevenson 03/29/11

(Colloquy Precedes.)

(Witness Enters Room.)

(Time Noted: 12:33 p.m.)

TURNER STEVENSON, called as a witness, having been first duly sworn by the Foreperson of the Grand Jury, was examined and testified as follows:

BY MR. DEVLIN-BROWN:

Q Please state your name and spell it for the record?

A Turner Stevenson, T-U-R-N-E-R, S-T-E-V-E-N-S-O-N.

Q Good afternoon. I'm Arlo Devlin-Brown. I'm an Assistant United States Attorney. You've been subpoenaed to testify to this Grand Jury, which is investigating various offenses involving securities fraud, bank fraud, other fraud offenses. I want to advise you that you're not a target or subject of the Grand Jury's inquiry, just subpoenaed as a witness.

Before we get started I make it a practice to advise you of certain rights that you and all witnesses have before the Grand Jury.

A Okay.

Q First of all, you have the right not to incriminate yourself, meaning if a truthful answer to a

1 T. Stevenson 03/29/11

2 question would tend to incriminate you you have the  
3 right to refuse to answer that question. Do you  
4 understand that?

5 A Yes.

6 Q You do have a right to an attorney to represent  
7 you. That attorney cannot be in the Grand Jury room.  
8 Do you have an attorney?

9 A Yes, outside.

10 Q What is his name?

11 A Ronald Richards.

12 Q If you need to consult him to answer or to get  
13 advice on a question you can feel free to take a break  
14 and ask to consult him, okay?

15 A Okay.

16 Q Do you understand that you're required to give  
17 truthful, non-misleading information to the Grand Jury?

18 A Yes.

19 Q Do you understand that if you give false or  
20 misleading information intentionally you could be  
21 prosecuted for obstruction of justice, perjury or false  
22 declaration to a Grand Jury?

23 A Yes.

24 Q Do you understand everything I've told you so  
25 far.

26 A Yes.

1 T. Stevenson 03/29/11

2 Q We'll proceed.

3 Let's start with a little background about you.

4 Where you were born?

5 A I was born in Port Alborne, British Columbia,  
6 May 18, 1972.

7 Q What country is that?

8 A Canada, sorry.

9 Q What country are you citizen of?

10 A Just Canada. I reside in the United States, I  
11 have my greencard here.

12 Q What is your current job here?

13 A I'm an assistant hockey coach for the Seattle  
14 Thunderbirds.

15 Q Is that NHL?

16 A Minor league team for players that are drafted  
17 out of there to go to the NHL.

18 Q Before you took this coaching position were you  
19 a professional hockey player yourself?

20 A For 13 years I was.

21 Q Played on the NHL?

22 A Yes. I played Montreal Canadians for seven  
23 years. I played in New Jersey for four years. And my  
24 last year was for the Fliers.

25 Q Do you know someone Phil Kenner?

26 A I do, yes.

1 T. Stevenson 03/29/11

2 Q When did you first meet Mr. Kenner?

3 A Probably first time when I got traded to New  
4 Jersey, the season of 2001, 2002, 2001, when I was  
5 playing for the Devils.

6 Q How did you meet him?

7 A Just through players that I played with, Mark  
8 Recky, who I played with, knew, and trusted very well.  
9 I had to change my financial stuff because you can't  
10 have that in Canada. I was moving. He recommended Phil  
11 Kenner. I went out at different times in Phoenix out  
12 there, for the first time dinners before feeling  
13 comfortable to go with him.

14 Q When you say "go with him" what did you have  
15 him do with you?

16 A Financial, get my, take care of my kids' stuff,  
17 college education, budget, stuff where my wife and I  
18 could put our money away, live a proper life, a proper  
19 life. We were making good money, you make good money as  
20 an athlete. We wanted to do things to make it long-term  
21 and not live an extravagant lifestyle. We don't live  
22 beyond our means. We don't own fancy cars, things like  
23 that.

24 Q You hired him to do this work?

25 A Yes.

26 Q What kind of compensation did you have with

T. Stevenson 03/29/11

6

1  
2 him?

3 A He gets just depending on what the portfolio  
4 would do, good or bad, anything he invested in or that  
5 he would oversee. It would basically be around 35, four  
6 different quarters.

7 Q Thirty-five?

8 A \$3,500 per quarter, stuff like that.

9 Q Based on the amount that he was managing for  
10 you?

11 A How it is set now, that's basically what it is  
12 right now, a set amount that he takes for working for  
13 us.

14 Q When you first signed on with him what year  
15 would this have been, 2001?

16 A I would say '01, '02.

17 Q Where had your money been banked before you  
18 signed on?

19 A Most of it was, we just had it in the bank in  
20 Nova-scotia in Montreal or CBC Bank in Montreal, Canada.

21 Q When he started managing, what accounts did you  
22 set up?

23 A Personal bank accounts. Then we had Schwab  
24 where we have cash market accounts. The rest of the  
25 stuff is in different stocks.

26 Q Which personal bank accounts, what banks did

1 T. Stevenson 03/29/11 7

2 you use for that at first?

3 A Our main one here -- in New Jersey when I was  
4 here, I can't remember the name of the bank here. The  
5 main one we use is Bank of America, is what we kept in  
6 Edmonton. In the summer I've been back there since '95;  
7 96. My wife and I lived there at various points; when  
8 the season is over we go back there.

9 Q Aside from stocks and bonds did Mr. Kenner  
10 recommend any -- in your history with him -- purchases  
11 of particular companies, stakes in particular companies,  
12 and/or real estate ventures?

13 A Real estate, yes; companies, no. I'm not  
14 invested in companies.

15 Q Did he recommend some to you from time to time?

16 A Yes, he did. He would ask me if I'm interested  
17 in an equipment company, I think. I would have been a  
18 later arrival than some players that have heard into  
19 companies, but nothing that I've agreed on to, just  
20 land.

21 Q Like Impact, have you heard of that company?

22 A No.

23 Q Did you consider potentially investing in some  
24 of the companies he was suggesting and conclude it was  
25 not for you, or you were not interested in doing that?

26 A A little of both at the time. I guess it was

T. Stevenson 03/29/11

8

different on feeling what percentage of what pay scale I was making at the time as playing a professional athlete. There are different amount of money, whether when at that time I felt this amount of money, I had made enough money in my career savings for playing from '94, '95 the dollar amounts of hockey never took off until later 90s when all players -- when I wasn't on the upper-end of the pay scale of a player. So that might have been something to do with it. I didn't have enough money at the time or feel comfortable giving away that money to do something like that.

Q Understood. What about the real estate, how many real estate ventures did you invest in that Phil Kenner had recommended?

A The one, the first one, would have been Hawaii, that I put \$100,000 into. Then the other one would have been Cabo San Lucas.

Q Do you remember the order of those investments?

A Order meaning?

Q Which one first?

A Hawaii.

Q When did you put the money into Hawaii?

A Probably not long after that, I would say, I would say after 2002, 2003 in there.

Q You think that early?



1 T. Stevenson 03/29/11 9

2 A I think, yeah.

3 Q What kind of material did you receive, if any,  
4 before you decided to make that investment?

5 A Material meaning?

6 Q Documents, prospectuses, something describing  
7 the project, how the money would be used?

8 A Never saw anything how the money would be used.  
9 I've seen pictures, land, what we were going to do, what  
10 they are purchasing, what it's going to look like. Then  
11 I agreed on to it, that was my decision.

12 Cabo was a little different. I've been there.  
13 So I was there a few times to see actually what it is  
14 and what it can be.

15 Q We'll stick with Hawaii for now. You put in  
16 \$100,000?

17 A Yes.

18 Q What made you think it would be a good  
19 investment since you didn't review materials? Is it  
20 things Kenner told you about?

21 A I don't think, it's not that, no. When I got  
22 into land I think you -- look back now, it's different,  
23 different world real estate. I had enough money. I  
24 don't think that, I don't say enough money, it was,  
25 \$100,000 at that time was a small percentage, something  
26 I believed in that could do well and make a lot of money

T. Stevenson 03/29/11

10

1  
2 in a great place like Hawaii. It wasn't learned in any  
3 way or so, that was just my own personal opinion of what  
4 I saw.

5 Q What were they supposed to do with this project  
6 in Hawaii?

7 A Get title of the land and turn it into some  
8 sort of development, hotels, something along those  
9 lines.

10 Q What was your \$100,000 buying you?

11 A Probably a small percentage.

12 Q In addition to the Hawaii projects mentioned  
13 San Lucas, tell us about that investment.

14 A That was one I decided -- I wasn't in the other  
15 ones -- that I went down there. I saw the property. I  
16 saw before the purchase was made. I want to say I was  
17 in there, I saw the pictures maybe '04, '05 I went in  
18 there to see it.

19 When I retired my last year was 2005/2006 in  
20 Philadelphia I went down there. When there was a golf  
21 tournament I saw the course and the possibility, which  
22 of course, there is there. That this could be very  
23 good. Because I've been to Cabo San Lucas before and  
24 saw the potential of what that investment could be.  
25 That to me 200,000, much like the 100,000, was a small  
26 percentage of my wealth. That I wasn't concerned about

T. Stevenson 03/29/11

11

1  
2 the risk. Obviously there is a risk of buying land in  
3 another country, I understand that. I saw what this can  
4 be and still can be today. I think it's great piece of  
5 property in a very popular place in the world.

6 Q What was the \$200,000 supposed to go for?

7 A Same percentages, we had up to \$200,000 to make  
8 the property work until there was a bank loan that was  
9 coming. Lehman Brothers came in eventually and we  
10 waited for that loan to buy the property, to buy the  
11 project, a small percentage.

12 Q Did you understand whether or not Phil Kenner  
13 had any interest in the project; in other words, he was  
14 like one of the owners or he would profit from your  
15 investment at all?

16 A I didn't, not at the time. I didn't -- are you  
17 asking if that is a factor of why I got into it?

18 Q I'm asking whether you understood he had any  
19 interest in it at the time?

20 A No, at the time I didn't.

21 Q Did you learn he had an interest at some point?

22 A Yeah, I would say that, yes.

23 Q How did you learn he had an interest?

24 A Probably from him, talking with Phil. But also  
25 talking with Mr. Jowdy as well. Ken Jowdy more so  
26 because I've had dealings with him, I've dealt with him

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

T. Stevenson 03/29/11

12

on a personal level with different issues that the other guys haven't, that I've had contact with him.

Q Mr. Jowdy?

A Yes.

Q How many times have you been down to San Lucas to see the property?

A Two times, once when I went there for the golf tournament. Another time when I went with, I brought my family, my wife and kids, to see the place.

Q The property is being developed as condominiums or timeshares?

A At the time the original was to build a golf course, and there is a golf course there. And then build homes, different condos, stuff like that, vacation resort kind of place.

Q Has the resort only been built or only the golf course?

A Only the golf course.

Q What is the status of the project?

A Sitting there. The players haven't, we, the loan is still there, as far as I know from Donza Bank, who took over the Lehman loan. That's the order it goes in. Not much is going on there.

Q At the time you invested in the San Lucas project, did you learn anything, did you know anything

T. Stevenson 03/29/11

13

1  
2 about an earlier project that Mr. Jowdy had been  
3 managing elsewhere in the Baha?

4 A I knew they, I wouldn't say I knew at the exact  
5 time that I invested the 200,000, I wouldn't say of the  
6 north project I learned, but I wasn't invested in that.

7 Q You learned after the fact?

8 A Yes.

9 Q Have you learned after the fact that they were  
10 having major problems with the north project?

11 A Yes. After they had done that, I think they  
12 learned that, my thought was, we kind of get everyone  
13 into Cabo. I didn't pay that much attention in it. I  
14 wasn't invested in it at the time; still ain't.

15 Q Same guy running both projects, Jowdy?

16 A Yes.

17 Q Would have you liked to have known at the time  
18 you were making the decision about whether to put money  
19 in San Lucas that the Jowdy project in the north of  
20 Mexico had gone no where?

21 A I may have known, like, I don't, at the exact  
22 time I don't remember knowing the north project was not  
23 bad. I probably if you would told me it that was bad at  
24 the time I still would have made; from what I've seen,  
25 even though he was managing, from what I saw at the land  
26 I still think I still probably would have made that

T. Stevenson 03/29/11

14

1  
2 decision.

3 Q Are you saying even if you had known the  
4 manager who you were entrusting the \$200,000 was not  
5 doing much on the project to the north, you still would  
6 have that, it wouldn't have been relevant to you as an  
7 investment?

8 A It would have been relevant, but I've also,  
9 like I said at the beginning, I don't believe the  
10 percentage I was putting in of 200,000 -- I think that's  
11 a fair question when I look back now. But at the time  
12 when I've seen, I still believe today that the property  
13 is going to be, it's going to be phenomenal whatever the  
14 end result is. That's going to be a beautiful place,  
15 because Cabo is just such a popular place to go. I  
16 still think it's going to be a great investment. I  
17 still think that even everything we've gone through.

18 Q Do you have any accounts at Northern Trust  
19 Bank?

20 A No.

21 Q Do you have a line of credit there as far as  
22 you know?

23 A No.

24 Q Did anyone ever ask you to open a line of  
25 credit?

26 A No.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

T. Stevenson 03/29/11

15

Q Did anyone suggest to you to increase your investment?

A No.

Q Do you know other players who have lines of credit that were used to fund any of these real estate deals?

A No, not that I'm aware of.

Q Are you party to any litigation or lawsuit involving any of these projects?

A We had one involving Ken Jowdy dismissed without prejudice.

Q Do you know why it was dismissed?

A No.

Q Were you deposed in that lawsuit?

A No.

Q Were they seeking to depose you, as far as you're aware of?

A Not that I've aware of.

MR. DEVLIN-BROWN: I propose excusing the witness for a moment. If you won't mind waiting in the hall. We may have more questions for you, we may not. In any event, it's possible at some future date the Grand Jury will wish to continue your Grand Jury testimony. We'll advise your attorney.

T. Stevenson 03/29/11

16

May I ask the witness be excused.

THE FOREPERSON: Yes.

(Witness Excused.)

(Time Noted: 12:52 p.m.)

(Colloquy Follows.)



1 T. Stevenson 03/29/11

17

2 (Colloquy Precedes.)

3 (Witness Enters Room.)

4 (Time Noted: 12:57 p.m.)

5 THE FOREPERSON: I remind you, you are still  
6 under oath.

7 BY MR. DEVLIN-BROWN:

8 Q The Hawaii project is called Little Isle IV; is  
9 that right?

10 A If that's the name they use, I just call it  
11 Hawaii.

12 Q When you put up the \$100,000 for Hawaii, did  
13 you have any understanding of whether the money could be  
14 used to pay for the Mexico project or was it just  
15 supposed to go to the Hawaii project?

16 A In the beginning it was supposed to go to  
17 Hawaii. Then I saw they needed, the group of us got  
18 together, we have this piece of land that's available  
19 for purchase in Mexico that we need too wait on or get  
20 funds on to transfer as a group like one big blanket to  
21 get money into Cabo and pay for that land to hold it  
22 until the loan came.

23 Q So are you saying you agreed to transfer some  
24 of the money from the Hawaii project to the Cabo  
25 project?

26 A I would say that, yes.

T. Stevenson 03/29/11

18

Q Who made that decision?

A I think all of us as a group.

Q What do you mean "as a group", who is the group?

A All the guys who were invested in it.

Q All the guys who were invested through Mr. Kenner, his clients?

A If all of them, yeah, and other guys that were invested in this; Mr. Jowdy I'm not sure.

Q Let me show you what's been marked 110A. Before I do, do you remember getting reports or anything from Mr. Kenner about the status of Little Isle IV the Hawaii project?

A No.

Q Take a look at this and see if you remember ever getting anything like this.

(Witness reviewing document.)

A I think I remember seeing that.

Q How do you remember getting it?

A Through a fax maybe. Seeing these actual numbers that looks familiar to me.

Q Okay. Is he still your financial adviser?

A He is.

Q Roughly how much money is he managing for you?

A Probably five, 600,000.

T. Stevenson 03/29/11

19

Q Does that include the money tied up in these  
real estate ventures like 300,000?

A No, that would be more than 900,000.

MR. DEVLIN-BROWN: May I ask the witness be  
excused.

THE FOREPERSON: Yes.

(Witness Excused.)

(Time Noted: 1:00 p.m.)

(Colloquy Follows.)

C E R T I F I C A T E

STATE OF NEW YORK )

)

COUNTY OF NEW YORK )

I, RIVKA TEICH, hereby certify that  
the foregoing is a true and accurate transcript,  
to the best of my skill and ability, from my  
stenographic notes of this proceeding.



Rivka Teich, R.P.R., C.S.R.

Acting Grand Jury Reporter